

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**COALITION PLAINTIFFS' RULE 59(E) MOTION TO ALTER OR
AMEND THE COURT'S OPINION AND ORDER [DOC. 918]
REQUIRING PAPER POLLBOOK BACKUPS**

Pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, the Coalition Plaintiffs¹ move to alter or amend this Court's Opinion and Order of September 28, 2020 (Doc. 918, the "Order"), which granted the Coalition Plaintiffs' motion (Doc. 800) for a preliminary injunction regarding paper pollbook backups. The Coalition Plaintiffs show that this Rule 59 Motion is timely brought within 28 days of the entry of the Order.

For the reasons explained in greater detail in the Brief in support of this Rule 59 Motion, filed herewith, Coalition Plaintiffs move that the Order be

¹ The "Coalition Plaintiffs" are Plaintiffs Coalition for Good Governance ("Coalition"), Laura Digges, William Digges III, Megan Missett, and Ricardo Davis.

amended with respect to the particular remedial measures that the Defendants must undertake. Specifically, Coalition Plaintiffs move that the Order be altered or amended in the following respects:

1.

The language of text on Page 64 of the Court's Opinion and Order (Doc. 918) should be amended as follows:

Effective immediately, the Secretary of State shall generate and transmit to each county election superintendent at the close of absentee in-person early voting an updated electors list in a format capable of printing by the election superintendent that includes all of the information located in the electronic pollbook

necessary for printing precinct-level information required in each polling place to check in voters and issue ballots to eligible voters. [FN 26] **Alternatively, the Secretary may assume responsibility for the printing and delivery function. In either case, the Secretary of State shall be responsible for the cost of printing and delivery. . . .**

(Doc. 918, at 64 (proposed additions shown in bolded underlining, and proposed deletions shown in bolded strike-outs).)

2.

The language of text and related footnotes in the first subparagraph currently numbered (4) and the second subparagraph currently numbered (4) on Page 65 of the Court's Opinion and Order (Doc. 918) should be amended as follows:

... (4) to allow voters who are shown to be eligible electors on the paper pollbook backups,but who are shown on the **paper pollbook backups updated list** as having requested an absentee mail-in ballot, to **have their absentee ballot canceled [FN 28] and to** cast a regular or emergency ballot that is not to be treated as a provisional ballot, provided that **such voter's absentee ballot is cancelled in accordance with O.C.G.A. § 21-2-288 such voter either surrenders the absentee ballot to the poll manager of the precinct or in the case of a voter who has requested but not yet received their absentee ballot completes an elector's oath [FN 29]** affirming the voter has not marked or mailed an

~~absentee ballot for voting in such primary or election.~~

~~(5) (4)~~ to take every reasonable measure to ensure

(Doc. 918, at 65 (proposed additions shown in bolded underlining, and proposed deletions shown in bolded strike-outs).)

3.

The language of text in the paragraph currently numbered (5) on Page 66 of the Court's Opinion and Order (Doc. 918) should be amended as follows:

. . . and (6) (5) begin polling place operations on
Election Day with at least 40% of the number of
registered voters to a polling place and at all times
thereafter maintain a sufficient stock of emergency paper
ballots in compliance with Ga. Comp. R. & Regs. 183-1-
12-.11(2)(c) and 183-1-12-.01. [FN 30]. The cost of
obtaining the initial stock of emergency paper ballots
above the requirements of Ga. Comp. R. & Regs. 183-
1-12-.11(2)(c) shall be borne by the Secretary of State.

. . . .

(Doc. 918, at 66 (proposed additions shown in bolded underlining, and proposed deletions shown in bolded strike-outs).)

4.

The language of Court's Opinion and Order (Doc. 918) should be amended to include the following additional findings of fact and conclusions of law:

First, the Court's findings discussed herein, including the finding of a likelihood of imminent harm to voters from Defendants' unenjoined conduct, apply with respect to each upcoming election in Georgia, namely the November 2020 general election, the December 2020 runoff election, the January 2021 election, and any subsequent elections to be held after January 2021.

Second, the relief granted by this Opinion and Order is hereby independently granted for, and shall apply to Defendants in respect of, the conduct of each upcoming election in Georgia, namely the November 2020 general election, the December 2020 runoff election, the January 2021 election, and any subsequent elections to be held after January 2021.

• • •

WHEREFORE, the Coalition Plaintiffs respectfully move this Court, pursuant to Rule 59(e), to alter or amend the judgment entered by its Opinion and Order of September 28, 2020 (Doc. 918) to reflect the foregoing changes.

The Coalition Plaintiffs have submitted a Proposed Order with this Rule 59 Motion that awards the foregoing requested relief.

Respectfully submitted this 8th day of October, 2020.

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown
Bruce P. Brown

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CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2020, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown
Bruce P. Brown